

RUTAN & TUCKER LLP

Attorneys at Law

611 Anton Boulevard, 14th Floor
Costa Mesa California 92626-1931

Mailing Address: Post Office Box 1950, Costa Mesa, California 92628-1950

Telephone: 714.641.5100

Facsimile 714.546.9035

RECEIVED
CENTRAL FAX CENTER**AUG 08 2005****FACSIMILE TRANSMISSION**DATE: **AUGUST 8, 2005**TO: Hard Copy to Follow via Mail: **NO**

NAME	FAX NO.	PHONE NO.
USPTO - Examiner David Bochna Group No. 3679	571-273-8300	571-272-7078

FROM: **Jacquelyn Campbell - 2279**RE: **U.S. Patent Application No. 10/753672**
Assembly for Joining Metallic Pipes Provided With Inner Plastic Liner
Jose Miguel Cabezas

CLIENT/MATTER NO.: 018579.0082US1	NUMBER OF PAGES, INCLUDING COVER: 2LP
-----------------------------------	--

MESSAGE:

Please see attached Response to Notification of Non-Compliant Appeal Brief. Thanks.

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INTENDED FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR AGENT RESPONSIBLE TO DELIVER THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU

If there are problems receiving this Fax Transmittal please call 714 641 5100, Ext. 1235

2279/100344.0007US1-
J00/00/00

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

25

Application Number

10/753,672

Filing Date

January 7, 2004

First Named Inventor

Jose Miguel Cabezas

Art Unit

3679

Examiner Name

David Bochna

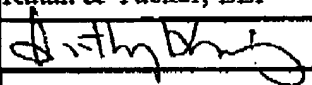
Attorney Docket Number

018579.0082US1

ENCLOSURES (Check all that apply)


<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below).
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	Remarks	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Rutan & Tucker, LLP		
Signature			
Printed name	Anthony King		
Date	Aug 08, 2005	Reg No	49063

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Jacquelyn Campbell	Date	08/08/2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

EXAMINER: David Bochna

APPELLANT: Jose Miguel Cabezas

SERIAL NO. 10/753,672

FILED: January 07, 2004

FOR: Assembly for Joining Metallic Pipes Provided With Inner Plastic Liner

ART UNIT 3679

RECEIVED
CENTRAL FAX CENTER
AUG 08 2005

MS Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attention: Board of Patent Appeals and Interferences

**APPELLANT'S BRIEF UNDER 37 CFR § 1.192 FILED IN RESPONSE TO THE
NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF**

This brief, transmitted in triplicate, is submitted in Response to the Notification of Non-Compliant Appeal Brief issued on July 22, 2005. Please charge any required fees or credit any overpayment to our deposit account number 502191.

This brief contains the following items under the headings in the order here indicated:

- I. Real Party In Interest
- II. Related Appeals And Interferences
- III. Status Of Claims
- IV. Status Of Amendments
- V. Summary Of Claimed Subject Matter
- VI. Issues
- VII. Grouping of Claims
- VIII. Claims Appendix

Application No 10/753,672
Attorney Docket No. 018579 0082US1

1

I. Real Party In Interest

The real party in interest is Jose Miguel Cabezas.

II. Related Appeals And Interferences

There are no other appeals or interferences in this matter known to appellant.

III. Status Of Claims

There are 11 claims in this case. The claims on appeal are 1-7.

IV. Status Of Amendments

No amendments were filed after final rejection. The claims were rejected in the final office action based on amendments made in response to the October 21, 2004 non-final Office Action. Section IX recites the claims as entered/pending and under final rejection.

V. Summary Of Claimed Subject Matter

Claim 1 is the only independent claim involved in this appeal. Claim 1 is generally directed to a pipe flange (Fig. 1, 11) comprising a first pipe flange (Fig. 1, 1) having a frontal face (Fig. 1, 10) that surrounds a central bore (Fig. 1, 23) passing through the flange. The face (Fig. 1, 10) comprises an internal flange recess (Fig. 1, 2) extending into the flange and surrounding the bore, and a groove (Fig. 1, 3) extending into the flange and surrounding the internal flange recess (Fig. 1, 2). The internal flange recess (Fig. 1, 2) comprises a textured surface (Fig. 5, 3) that at least partially surrounding the bore (Fig. 1, 23) such that the textured surface (Fig. 5, 3) is adapted to engage another surface (Fig. 5, 16).

VI. ISSUES

Whether claims 1-5 should have been rejected as being anticipated by Enger et al. (U.S. Patent No. 5,573,282).

Whether claims 1-7 should have been rejected as being anticipated by Campbell (U.S. Patent No. 6,543,811).

VII. GROUPING OF CLAIMS

Claims 1-7 stand or fall together.

VIII. Argument

First ground of rejection: Anticipation by Enger. Claims 1-5 are argued together.

The applicant's position is that Enger fails to disclose an *internal flange recess that comprises a textured surface*

Independent claim 1, and all claims depending therefrom, expressly recites, "wherein the internal flange recess comprises a textured surface at least partially surrounding the bore." Enger fails to disclose this claim element (Arguments dated January 21, 2005, to Office Action, page 5, third full paragraph).

The examiner considers all surfaces to be "textured"

In the Office Action dated October 21, 2004, the examiner stated that "all surfaces inherently have some texture to them" (paragraph 3), and in the the Office Action dated March 31, 2005, the examiner restated the same thing (paragraph 2). Thus, the examiner considers all surfaces to be textured. Based on that assumption, the examiner apparently considers the element of an *internal flange recess that comprises a textured surface* to be inherent in the Enger disclosure.

The examiner considers the dictionary definition of "textured" to be relevant

In the final Office Action dated March 31, 2005, the examiner compared a dictionary definition to the applicant's claim in order to refute the applicant's arguments (Final Office Action, page 5, second full paragraph).

In this case, the dictionary definition of "textured" is irrelevant because the term is defined in the specification

If a meaning for a claim term is provided in the specification, the claims should be interpreted using that meaning ("When the applicant states the meaning that the claim terms are intended to have, the claims are examined with that meaning, in order to achieve a complete exploration of the applicant's invention and its relation to the prior art." *In re Zletz*, 893 F.2d 319, 321). Here, the applicant very clearly states a meaning for the term "textured surface" – "A 'textured surface', as the term is used herein, is a surface formed with gaps or other features adapted to engage a surface of a plastic flange in order to form a better seal with, and/or to better retain the plastic flange." (page 10, forth full paragraph).

Based on the definition of "textured" in the specification, all surfaces are not "textured"

Using the definition in the specification, the term *textured surface* is defined to mean "a surface formed with gaps or other features adapted to engage a surface of a plastic flange in order to form a better seal with, and/or to better retain the plastic flange." In order to make it abundantly clear that the applicant intends the term *textured surface* to include the structure of a surface adapted to engage another surface, the applicant has added that specific language to claim 1. Thus, claim 1 not only recites "an internal flange recess that comprises a textured surface", but it also recites "such that the surface is adapted to engage another surface". Surely, not every surface is adapted to engage another surface to form a better seal. "Better" is a relative term. If a "better" seal were to be formed, not just any surface would do. What is required is a surface that is adapted to engage another surface. In addition, the figures of the specification clearly show that some surfaces are textured and some are not – at least according to the definition of "textured" in the specification.

The applicant would further like to point out that the examiner's position that *all surfaces are inherently textured* is inconsistent with the tenet of claim construction that every claim element is a limitation. Thus the applicant's meaning of *textured surface* must be more narrow than one that includes *all surfaces*.

Therefore, Enger does not disclose an internal flange recess that comprises a textured surface

Based on the meaning of "textured surface" within the specification, its use in the figures, and its use as a limitation in the claims, Egner cannot be said to disclose an internal flange recess comprising a textured surface.

Second ground of rejection: Anticipation by Campbell. Claims 1-7 are argued together.

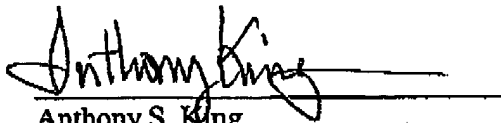
Campbell fails as an anticipatory reference for the same reasons that Egner fails

For the same reasons as discussed above with reference to Egner, Campbell also fails to disclose an internal flange recess that comprises a textured surface. The distinction between the surface in Campbell and the surface recited in claim 1 is elucidated by the claim language that adds the limitation: "such that the surface is adapted to engage another surface". Again, the examiner can argue that all surfaces are textured, but, even if that were true, not all surfaces are textured to the degree that the surface is adapted to engage another surface. On top of that, the definition of *textured* in the specification warrants that the surface be adapted to engage another surface to form a better seal. When the full definition of *textured* is applied to claim 1, Campbell also fails as an anticipatory reference.

Conclusion Of Argument

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (MPEP § 2131). Neither Enger nor Campbell can be said to disclose every element of claim 1. The applicant, therefore, respectfully requests that the rejection of all the claims based on Enger or Campbell be withdrawn.

Respectfully submitted,



Anthony S. King
Reg. No. 49,063
Attorney for Appellant

Dated: August 1, 2005

Rutan & Tucker, LLP
611 Anton Blvd., Suite 1400
Costa Mesa, CA 92626
Tel: 714-641-5100
Fax: 714-546-9035

IX. Claims Appendix

1. A pipe flange apparatus comprising a first pipe flange having a frontal face surrounding a central bore passing through the flange, the face comprising an internal flange recess extending into the flange and surrounding the bore, and a groove extending into the flange and surrounding the internal flange recess, wherein the internal flange recess comprises a textured surface at least partially surrounding the bore such that the textured surface is adapted to engage another surface.
2. The apparatus of claim 1 wherein the groove is substantially circular and the internal flange recess is disk shaped, and the diameter of the groove is greater than the diameter of the internal flange recess.
3. The apparatus of claim 2 wherein the flange comprises a plurality of boreholes extending through the flange and positioned radially around the groove.
4. The apparatus of claim 3 wherein the groove has a depth less than that of the internal flange recess.
5. The apparatus of claim 1 further comprising:
an internal flange having first and second portions surrounding a bore extending through the internal flange, wherein the first portion is positioned at least partially within the internal flange recess of the first pipe flange and in contact with the textured surface of the first pipe flange and the second portion extends into the bore; and
a first sealing ring positioned at least partially within the groove surrounding the internal flange recess.
6. The apparatus of claim 5 wherein the first portion of the internal flange is sized and positioned such that it substantially fills all of the internal flange recess but does extend radially outward from the internal flange recess.
7. The apparatus of claim 6 wherein the flange is coupled to a lined pipe having a central liner that is separate from the internal flange, and wherein the central liner extends into

the central bore of the first pipe flange such that the central liner and the second portion of the internal flange line the central bore of the first pipe flange.

AUG 08 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

EXAMINER: David Bochna
APPELLANT: Jose Miguel Cabezas
SERIAL NO. 10/753,672
FILED: January 07, 2004
FOR: Assembly for Joining Metallic Pipes Provided With Inner Plastic Liner
ART UNIT 3679

MS Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attention: Board of Patent Appeals and Interferences

**APPELLANT'S BRIEF UNDER 37 CFR § 1.192 FILED IN RESPONSE TO THE
NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF**

This brief, transmitted in triplicate, is submitted in Response to the Notification of Non-Compliant Appeal Brief issued on July 22, 2005. Please charge any required fees or credit any overpayment to our deposit account number 502191.

This brief contains the following items under the headings in the order here indicated:

- I. Real Party In Interest
- II. Related Appeals And Interferences
- III. Status Of Claims
- IV. Status Of Amendments
- V. Summary Of Claimed Subject Matter
- VI. Issues
- VII. Grouping of Claims
- VIII. Claims Appendix

I. Real Party In Interest

The real party in interest is Jose Miguel Cabezas.

II. Related Appeals And Interferences

There are no other appeals or interferences in this matter known to appellant.

III. Status Of Claims

There are 11 claims in this case. The claims on appeal are 1-7.

IV. Status Of Amendments

No amendments were filed after final rejection. The claims were rejected in the final office action based on amendments made in response to the October 21, 2004 non-final Office Action. Section IX recites the claims as entered/pending and under final rejection.

V. Summary Of Claimed Subject Matter

Claim 1 is the only independent claim involved in this appeal. Claim 1 is generally directed to a pipe flange (Fig. 1, 11) comprising a first pipe flange (Fig. 1, 1) having a frontal face (Fig. 1, 10) that surrounds a central bore (Fig. 1, 23) passing through the flange. The face (Fig. 1, 10) comprises an internal flange recess (Fig. 1, 2) extending into the flange and surrounding the bore, and a groove (Fig. 1, 3) extending into the flange and surrounding the internal flange recess (Fig. 1, 2). The internal flange recess (Fig. 1, 2) comprises a textured surface (Fig. 5, 3) that at least partially surrounding the bore (Fig. 1, 23) such that the textured surface (Fig. 5, 3) is adapted to engage another surface (Fig. 5, 16).

VI. ISSUES

Whether claims 1-5 should have been rejected as being anticipated by Enger et al. (U.S. Patent No. 5,573,282).

Whether claims 1-7 should have been rejected as being anticipated by Campbell (U.S. Patent No. 6,543,811).

VII. GROUPING OF CLAIMS

Claims 1-7 stand or fall together.

VIII. Argument

First ground of rejection: Anticipation by Enger. Claims 1-5 are argued together.

The applicant's position is that Enger fails to disclose an *internal flange recess that comprises a textured surface*

Independent claim 1, and all claims depending therefrom, expressly recites, "wherein the internal flange recess comprises a textured surface at least partially surrounding the bore." Enger fails to disclose this claim element (Arguments dated January 21, 2005, to Office Action, page 5, third full paragraph).

The examiner considers all surfaces to be "textured"

In the Office Action dated October 21, 2004, the examiner stated that "all surfaces inherently have some texture to them" (paragraph 3), and in the the Office Action dated March 31, 2005, the examiner restated the same thing (paragraph 2). Thus, the examiner considers all surfaces to be textured. Based on that assumption, the examiner apparently considers the element of an *internal flange recess that comprises a textured surface* to be inherent in the Enger disclosure.

The examiner considers the dictionary definition of "textured" to be relevant

In the final Office Action dated March 31, 2005, the examiner compared a dictionary definition to the applicant's claim in order to refute the applicant's arguments (Final Office Action, page 5, second full paragraph).

In this case, the dictionary definition of "textured" is irrelevant because the term is defined in the specification

If a meaning for a claim term is provided in the specification, the claims should be interpreted using that meaning ("When the applicant states the meaning that the claim terms are intended to have, the claims are examined with that meaning, in order to achieve a complete exploration of the applicant's invention and its relation to the prior art." *In re Zletz*, 893 F.2d 319, 321). Here, the applicant very clearly states a meaning for the term "textured surface" – "A 'textured surface', as the term is used herein, is a surface formed with gaps or other features adapted to engage a surface of a plastic flange in order to form a better seal with, and/or to better retain the plastic flange." (page 10, forth full paragraph).

Based on the definition of "textured" in the specification, all surfaces are not "textured"

Using the definition in the specification, the term *textured surface* is defined to mean "a surface formed with gaps or other features adapted to engage a surface of a plastic flange in order to form a better seal with, and/or to better retain the plastic flange." In order to make it abundantly clear that the applicant intends the term *textured surface* to include the structure of a surface adapted to engage another surface, the applicant has added that specific language to claim 1. Thus, claim 1 not only recites "an internal flange recess that comprises a textured surface", but it also recites "such that the surface is adapted to engage another surface". Surely, not every surface is adapted to engage another surface to form a better seal. "Better" is a relative term. If a "better" seal were to be formed, not just any surface would do. What is required is a surface that is adapted to engage another surface. In addition, the figures of the specification clearly show that some surfaces are textured and some are not – at least according to the definition of "textured" in the specification.

The applicant would further like to point out that the examiner's position that *all surfaces are inherently textured* is inconsistent with the tenet of claim construction that every claim element is a limitation. Thus the applicant's meaning of *textured surface* must be more narrow than one that includes *all surfaces*.

Therefore, Enger does not disclose an internal flange recess that comprises a textured surface

Based on the meaning of "textured surface" within the specification, its use in the figures, and its use as a limitation in the claims, Egner cannot be said to disclose an internal flange recess comprising a textured surface.

Second ground of rejection: Anticipation by Campbell. Claims 1-7 are argued together.

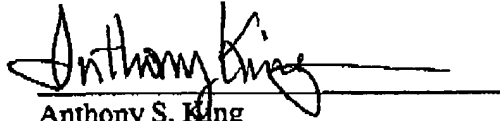
Campbell fails as an anticipatory reference for the same reasons that Egner fails

For the same reasons as discussed above with reference to Egner, Campbell also fails to disclose an internal flange recess that comprises a textured surface. The distinction between the surface in Campbell and the surface recited in claim 1 is elucidated by the claim language that adds the limitation: "such that the surface is adapted to engage another surface". Again, the examiner can argue that all surfaces are textured, but, even if that were true, not all surfaces are textured to the degree that the surface is adapted to engage another surface. On top of that, the definition of *textured* in the specification warrants that the surface be adapted to engage another surface to form a better seal. When the full definition of *textured* is applied to claim 1, Campbell also fails as an anticipatory reference.

Conclusion Of Argument

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (MPEP § 2131). Neither Egner nor Campbell can be said to disclose every element of claim 1. The applicant, therefore, respectfully requests that the rejection of all the claims based on Egner or Campbell be withdrawn.

Respectfully submitted,



Anthony S. King
Reg. No. 49,063
Attorney for Appellant

Dated: August 1, 2005

Rutan & Tucker, LLP
611 Anton Blvd., Suite 1400
Costa Mesa, CA 92626
Tel: 714-641-5100
Fax: 714-546-9035

IX. Claims Appendix

1. A pipe flange apparatus comprising a first pipe flange having a frontal face surrounding a central bore passing through the flange, the face comprising an internal flange recess extending into the flange and surrounding the bore, and a groove extending into the flange and surrounding the internal flange recess, wherein the internal flange recess comprises a textured surface at least partially surrounding the bore such that the textured surface is adapted to engage another surface.
2. The apparatus of claim 1 wherein the groove is substantially circular and the internal flange recess is disk shaped, and the diameter of the groove is greater than the diameter of the internal flange recess.
3. The apparatus of claim 2 wherein the flange comprises a plurality of boreholes extending through the flange and positioned radially around the groove.
4. The apparatus of claim 3 wherein the groove has a depth less than that of the internal flange recess.
5. The apparatus of claim 1 further comprising:
an internal flange having first and second portions surrounding a bore extending through the internal flange, wherein the first portion is positioned at least partially within the internal flange recess of the first pipe flange and in contact with the textured surface of the first pipe flange and the second portion extends into the bore; and
a first sealing ring positioned at least partially within the groove surrounding the internal flange recess.
6. The apparatus of claim 5 wherein the first portion of the internal flange is sized and positioned such that it substantially fills all of the internal flange recess but does extend radially outward from the internal flange recess.
7. The apparatus of claim 6 wherein the flange is coupled to a lined pipe having a central liner that is separate from the internal flange, and wherein the central liner extends into

the central bore of the first pipe flange such that the central liner and the second portion of the internal flange line the central bore of the first pipe flange.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

EXAMINER: David Bochna
APPELLANT: Jose Miguel Cabezas
SERIAL NO. 10/753,672
FILED: January 07, 2004
FOR: Assembly for Joining Metallic Pipes Provided With Inner Plastic Liner
ART UNIT 3679

RECEIVED
CENTRAL FAX CENTER
AUG 08 2005

MS Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attention: Board of Patent Appeals and Interferences

**APPELLANT'S BRIEF UNDER 37 CFR § 1.192 FILED IN RESPONSE TO THE
NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF**

This brief, transmitted in triplicate, is submitted in Response to the Notification of Non-Compliant Appeal Brief issued on July 22, 2005. Please charge any required fees or credit any overpayment to our deposit account number 502191.

This brief contains the following items under the headings in the order here indicated:

- I. Real Party In Interest
- II. Related Appeals And Interferences
- III. Status Of Claims
- IV. Status Of Amendments
- V. Summary Of Claimed Subject Matter
- VI. Issues
- VII. Grouping of Claims
- VIII. Claims Appendix

Application No. 10/753,672
Attorney Docket No. 018579.0082US1

1

I. Real Party In Interest

The real party in interest is Jose Miguel Cabezas.

II. Related Appeals And Interferences

There are no other appeals or interferences in this matter known to appellant.

III. Status Of Claims

There are 11 claims in this case. The claims on appeal are 1-7.

IV. Status Of Amendments

No amendments were filed after final rejection. The claims were rejected in the final office action based on amendments made in response to the October 21, 2004 non-final Office Action. Section IX recites the claims as entered/pending and under final rejection.

V. Summary Of Claimed Subject Matter

Claim 1 is the only independent claim involved in this appeal. Claim 1 is generally directed to a pipe flange (Fig. 1, 11) comprising a first pipe flange (Fig. 1, 1) having a frontal face (Fig. 1, 10) that surrounds a central bore (Fig. 1, 23) passing through the flange. The face (Fig. 1, 10) comprises an internal flange recess (Fig. 1, 2) extending into the flange and surrounding the bore, and a groove (Fig. 1, 3) extending into the flange and surrounding the internal flange recess (Fig. 1, 2). The internal flange recess (Fig. 1, 2) comprises a textured surface (Fig. 5, 3) that at least partially surrounding the bore (Fig. 1, 23) such that the textured surface (Fig. 5, 3) is adapted to engage another surface (Fig. 5, 16).

VI. ISSUES

Whether claims 1-5 should have been rejected as being anticipated by Enger et al. (U.S. Patent No. 5,573,282).

Whether claims 1-7 should have been rejected as being anticipated by Campbell (U.S. Patent No. 6,543,811).

VII. GROUPING OF CLAIMS

Claims 1-7 stand or fall together.

VIII. Argument

First ground of rejection: Anticipation by Enger. Claims 1-5 are argued together.

The applicant's position is that Enger fails to disclose an internal flange recess that comprises a textured surface

Independent claim 1, and all claims depending therefrom, expressly recites, "wherein the internal flange recess comprises a textured surface at least partially surrounding the bore." Enger fails to disclose this claim element (Arguments dated January 21, 2005, to Office Action, page 5, third full paragraph).

The examiner considers all surfaces to be "textured"

In the Office Action dated October 21, 2004, the examiner stated that "all surfaces inherently have some texture to them" (paragraph 3), and in the the Office Action dated March 31, 2005, the examiner restated the same thing (paragraph 2). Thus, the examiner considers all surfaces to be textured. Based on that assumption, the examiner apparently considers the element of an *internal flange recess that comprises a textured surface* to be inherent in the Enger disclosure.

The examiner considers the dictionary definition of "textured" to be relevant

In the final Office Action dated March 31, 2005, the examiner compared a dictionary definition to the applicant's claim in order to refute the applicant's arguments (Final Office Action, page 5, second full paragraph).

In this case, the dictionary definition of "textured" is irrelevant because the term is defined in the specification

If a meaning for a claim term is provided in the specification, the claims should be interpreted using that meaning ("When the applicant states the meaning that the claim terms are intended to have, the claims are examined with that meaning, in order to achieve a complete exploration of the applicant's invention and its relation to the prior art." *In re Zletz*, 893 F.2d 319, 321). Here, the applicant very clearly states a meaning for the term "textured surface" – "A 'textured surface', as the term is used herein, is a surface formed with gaps or other features adapted to engage a surface of a plastic flange in order to form a better seal with, and/or to better retain the plastic flange." (page 10, forth full paragraph).

Based on the definition of "textured" in the specification, all surfaces are not "textured"

Using the definition in the specification, the term *textured surface* is defined to mean "a surface formed with gaps or other features adapted to engage a surface of a plastic flange in order to form a better seal with, and/or to better retain the plastic flange." In order to make it abundantly clear that the applicant intends the term *textured surface* to include the structure of a surface adapted to engage another surface, the applicant has added that specific language to claim 1. Thus, claim 1 not only recites "an internal flange recess that comprises a textured surface", but it also recites "such that the surface is adapted to engage another surface". Surely, not every surface is adapted to engage another surface to form a better seal. "Better" is a relative term. If a "better" seal were to be formed, not just any surface would do. What is required is a surface that is adapted to engage another surface. In addition, the figures of the specification clearly show that some surfaces are textured and some are not – at least according to the definition of "textured" in the specification.

The applicant would further like to point out that the examiner's position that *all surfaces are inherently textured* is inconsistent with the tenet of claim construction that every claim element is a limitation. Thus the applicant's meaning of *textured surface* must be more narrow than one that includes *all surfaces*.

Therefore, Enger does not disclose an *internal flange recess that comprises a textured surface*

Based on the meaning of "textured surface" within the specification, its use in the figures, and its use as a limitation in the claims, Egner cannot be said to disclose an internal flange recess comprising a textured surface.

Second ground of rejection: Anticipation by Campbell. Claims 1-7 are argued together.

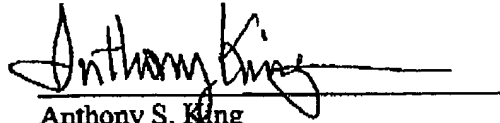
Campbell fails as an anticipatory reference for the same reasons that Egner fails

For the same reasons as discussed above with reference to Egner, Campbell also fails to disclose an internal flange recess that comprises a textured surface. The distinction between the surface in Campbell and the surface recited in claim 1 is elucidated by the claim language that adds the limitation: "such that the surface is adapted to engage another surface". Again, the examiner can argue that all surfaces are textured, but, even if that were true, not all surfaces are textured to the degree that the surface is adapted to engage another surface. On top of that, the definition of *textured* in the specification warrants that the surface be adapted to engage another surface to form a better seal. When the full definition of *textured* is applied to claim 1, Campbell also fails as an anticipatory reference.

Conclusion Of Argument

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (MPEP § 2131). Neither Enger nor Campbell can be said to disclose every element of claim 1. The applicant, therefore, respectfully requests that the rejection of all the claims based on Enger or Campbell be withdrawn.

Respectfully submitted,



Anthony S. King

Reg. No. 49,063

Attorney for Appellant

Dated: August 1, 2005

Rutan & Tucker, LLP
611 Anton Blvd., Suite 1400
Costa Mesa, CA 92626
Tel: 714-641-5100
Fax: 714-546-9035

IX. Claims Appendix

1. A pipe flange apparatus comprising a first pipe flange having a frontal face surrounding a central bore passing through the flange, the face comprising an internal flange recess extending into the flange and surrounding the bore, and a groove extending into the flange and surrounding the internal flange recess, wherein the internal flange recess comprises a textured surface at least partially surrounding the bore such that the textured surface is adapted to engage another surface.
2. The apparatus of claim 1 wherein the groove is substantially circular and the internal flange recess is disk shaped, and the diameter of the groove is greater than the diameter of the internal flange recess.
3. The apparatus of claim 2 wherein the flange comprises a plurality of boreholes extending through the flange and positioned radially around the groove.
4. The apparatus of claim 3 wherein the groove has a depth less than that of the internal flange recess.
5. The apparatus of claim 1 further comprising:
an internal flange having first and second portions surrounding a bore extending through the internal flange, wherein the first portion is positioned at least partially within the internal flange recess of the first pipe flange and in contact with the textured surface of the first pipe flange and the second portion extends into the bore; and
a first sealing ring positioned at least partially within the groove surrounding the internal flange recess.
6. The apparatus of claim 5 wherein the first portion of the internal flange is sized and positioned such that it substantially fills all of the internal flange recess but does extend radially outward from the internal flange recess.
7. The apparatus of claim 6 wherein the flange is coupled to a lined pipe having a central liner that is separate from the internal flange, and wherein the central liner extends into

the central bore of the first pipe flange such that the central liner and the second portion of the internal flange line the central bore of the first pipe flange.